

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

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|-----------------------------------|---|--|
| Thomas H. Bray, |) | |
| |) | |
| Plaintiff, |) | |
| |) | ORDER DENYING MOTIONS TO COMPEL |
| vs. |) | AND FOR DEFAULT JUDGMENT |
| |) | |
| |) | |
| Bank of America, MERS, Inc., |) | |
| Country Wide Home Loans, et. al., |) | |
| |) | Case No.: 1:09-cv-075 |
| Defendants. |) | |

On December 21, 2009, Plaintiff filed what the court construes as a motion to compel the production of documents he asserts are necessary to conduct a complete forensic audit. Additionally, he filed a “a motion to consider acts committed in ultra [vires], on entry of TILA documents pursuant to Rules of Evidence Rule 902(4).” Therein, he requests, inter alia, that the court “grant a default judgment based on federal offenses that the [defendants] have committed and . . . full financial recompense with clear title and no further legal proceedings.” Given the relief he sees, the court shall construe this as a motion for default judgment.

The court generally employs the following protocol in civil actions. Once all of the defendants have filed a responsive pleading, the court will conduct a scheduling conference during which it will review with the parties its procedure for resolving discovery disputes and work with the parties to formulate a scheduling/discovery plan. Such a conference is scheduled in this case on January 29, 2010, at 10:00 a.m. at the U.S. Courthouse in Bismarck, North Dakota (courtroom #2). Plaintiff’s demands for discovery in advance of this conference are premature. His motion to compel (Docket No. 17) is therefore **DENIED** without prejudice. Plaintiff court shall next address

Plaintiff's motion for default judgment.

Under Rule 55 of the Federal Rules of Civil procedure, a motion for default judgment may only be granted in those instances in which "a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules." Such is not the case here; Defendants have timely filed a responsive pleading. Plaintiff's motion for default judgment (Docket No 18) is therefore **DENIED**.

IT IS SO ORDERED.

Dated this 29th day of December, 2009.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge